IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

CRP.No. 260 of 2001(F)

(AGAINST THE ORDER IN TLB.669/1973 DATED 26/08/2000 ON THE FILE OF THE TALUK LAND BOARD, MANANTHAVADY. COPY OF THE ORDER WAS RECEIVED ONLY ON 4/01/01)

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REVN. PETITIONERS: DECLARANT:

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1. **K.J.JOSEPH, S/O.LATE KALAPPURACKAL JOHN, PAYYAMPILLY, WYNAD, MANANTHAVADY.**

2. **K.J. JOHN, ...DO...DO....**

BY ADV. SRI.T.A.RAMADASAN
SRI.A.K.ALEX

RESPONDENTS/PETITIONER AND STATE:

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1. **THE TALUK LAND BOARD, MANANTHAVADY.**

2. **STATE OF KERALA, REP. BY CHIEF SECRETARY, SECRETARIAT, TRIVANDRUM.**

BY GOVERNMENT PLEADER SRI. SHYSON P.MANGUZHA for R1&R2

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

C.R.P.NO.260/2001 F

ORDER ON C.M.P.NO.541/2001 IN C.R.P.NO.260/2001 F

DISMISSED

10/07/2007 **SD/- PIUS C.KURIAKOSE, JUDGE**

/TRUE COPY/

KSS

PIUS C. KURIAKOSE,J.

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C.R.P. No. 260 of 2001

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Dated: 10th July, 2007

ORDER

Two points were raised by the counsel for the revision petitioners. The first was that the reason assigned for re-opening the case under Section 85(9) of the Land Reforms Act that it was in the absence of any evidence that the Taluk Land Board dropped the previous proceedings is wrong. There was the authorised officer's report which was most valuable evidence. The impugned order does not refer at all to the authorised officer's report. The second point which was urged before me by the learned counsel was that the observation of the Taluk Land Board that the certificate issued by the Rubber Board in respect of the rubber plantation has not been produced is erroneous. The certificate had been purchased. Counsel also invited my attention to the authorised officer's report which was subsequently obtained by the Taluk Land Board for placing reliance in the re-opened proceedings. That report, according to him, shows that now (at the time of inspection of the present authorised officer) the rubber plantation has been converted as land cultivated with arecanut, coconut, pepper vines and seasonal crops. In other words, the argument of the counsel is that it is virtually conceded by the

authorised officer in his present report that previously the property in question was a rubber plantation.

2. It is true that the impugned order does not specifically refer to the authorised officers report. But that such an authorised officer's report was there, is obvious since the report of the authorised officer who was deputed re-opening of the case under Section 85(9) refers to the earlier order. Even though the learned counsel submitted that the counsel who was appearing for the petitioner who is stated to be no more had produced the certificate of the Rubber Board Registration Certificate before the Taluk Land Board, a perusal of the records do not reveal any such production. But at the same time a photostat copy of the Rubber Board Registration Certificate is placed before me by the counsel for my perusal. It appears to me that the claim that the property in question was registered with the Rubber Board is not totally untrue. Accordingly, setting aside the impugned order, I direct the Taluk Land Board to take a fresh decision after affording opportunity to the petitioners to produce the Rubber Board Registration Certificate and any other evidence which they choose to produce. It is open to the petitioner to take necessary steps with the Rubber Board for production of Rubber Board Registration Certificate.

Needful will be done by the Taluk Land Board at the earliest and at any rate within six months of the petitioners producing copy of this order.

The C.R.P. is allowed by way of remand. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**